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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,004	08/01/2008	Gianni Collina	FE 6159 (US)	8569
34872	7590	11/25/2009		
BASELL USA INC. NEWTOWN SQUARE CENTER 3801 WEST CHESTER PIKE, BLDG. B NEWTOWN SQUARE, PA 19703			EXAMINER WRIGHT, SONYA N	
			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			11/25/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,004

Applicant(s)

COLLINA ET AL.

Examiner

SONYA WRIGHT

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-16 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 13-15 and 18-25 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 13-16 and 18-26 are pending in this application. Claim 17 has been cancelled.

Response to Arguments

Applicant's arguments, see p. 2-4, filed 8/21/2009, with respect to the rejection(s) of claim(s) 13, 15, and 18-24 under 35 U.S.C. 102, and for double patenting have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Claim Rejections - 35 USC § 102 or 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Rejection under 35 U.S.C. 102(b)

Claims 13-15 and 18-25 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 395 083 Sachetti et al.

Sacchetti et al. teach examples of the instant claims, when in instant claim 13, n is 2, p is 0 and LB is absent; in instant claim 19, n is 0 and y-n is 4, X is chlorine, and R is absent; in instant claim 20, the titanium compound is TiCl_4 ; and in instant claim 24 (see especially Example 6 of Sacchetti et al.), the olefin is propylene. In Sacchetti et al. see Examples 1-6 on pages 9-12. Also in Sacchetti et al. see page 3, line 46 which states that there are not greater than 2 moles of alcohol contents per MgCl_2 mole. Finally, in Sacchetti et al., see page 2, lines 49-50 and page 3, lines 55-56 which state that an electron-donor compound can be used in the invention.

Sachetti et al. do not teach the fusion enthalpy lower than 100 J/g. However, it is assumed that the enthalpy would be inherent in the invention of Sachetti et al., since the invention of Sachetti et al. is an adduct comprising MgCl_2 and ethanol.

Rejection under 35 U.S.C. 102(e)

Claims 13-15 and 18-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Diego et al., Patent Application Publication 2006/0025300 (U.S. Patent Application 10/537,079). Diego et al. teach specific examples of the instant invention in page 5, paragraphs [0043]-[0049] and page 6, paragraph [0050]. Diego et al. anticipate the instant claims when, in the instant claims LB is selected from ethers and esters; n and p are as defined; in instant claim 19-- X is chlorine, n is 0 and y-n is 4; and in instant claim 24-- R is as defined.

Diego et al. do not teach the fusion enthalpy lower than 100 J/g. However, it is assumed that the enthalpy would be inherent in the invention of Diego et al. since the invention of Diego et al. is an adduct comprising MgCl_2 , ethanol, and ethers or esters.

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claim Objections

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowable Subject Matter

Claim 26 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONYA WRIGHT whose telephone number is (571)272-5857. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ling-Siu Choi/
Primary Examiner, Art Unit 1796

/SONYA WRIGHT/
Examiner, Art Unit 1796